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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,392	10/22/2001	Johannes J. Verboom	18504/333	1059
7590	03/15/2005		EXAMINER	
Oppenheimer Wolff & Donnelly LLP Suite 3300 45 South Seventh Street Minneapolis, MN 55402-1609			TORRES, JOSEPH D	
			ART UNIT	PAPER NUMBER
			2133	
DATE MAILED: 03/15/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/014,392	VERBOOM, JOHANNES J.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Joseph D. Torres	2133	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 28 February 2005.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-31 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-31 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 28 February 2005 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings were received on 10/22/2001. These drawings are accepted.

### ***Specification***

2. In view of the amendment filed 02/28/2005, the Examiner withdraws all objections to the abstract.

### ***Response to Arguments***

Applicant's arguments filed 02/28/2005 have been fully considered but they are not persuasive.

The Applicant contends, "Kuroda outlines a storage system which utilizes disk pre-pits in order to arrange data. This pre-pit information is stored on the disk by the media manufacturer prior to delivery or use in a data storage system".

Col. 5, lines 48-49 in Kuroda teach that one recording sector includes 26 sync frames (Note: a recording sector is a data storage area for user data during use of the recording media and a sync frame is a recording unit for accessing data from the recording media created at the time data is to be recorded to the frame). Col. 5, lines 59-61 in Kuroda teach that pre-information is recorded in a portion of a length of 14T in the head part of the sync frame from a position of 2T from the start position of each

sync frame, hence the pre-information is placed at precise position within a sync frame and is done so for all 26 sync frames in a recording sector so that the pre-information is interleaved between data on storage area recording sector.

The Examiner asserts that “pre-pit information” is not “pre-information” as taught in Kuroda.

The Applicant contends, “The Kuroda et al. storage system is limited to the physical structure located on the surface of the media”.

Col. 6, lines 30-40 in Kuroda teach that pre-information depends only on the sync frame structure not the pre-pits.

The Examiner disagrees with the applicant and maintains all rejections of claims 1-31. All amendments and arguments by the applicant have been considered. It is the Examiner's conclusion that claims 1-31 are not patentably distinct or non-obvious over the prior art of record in view of the references, Kuroda; Kazuo et al. (US 5875163 A, hereafter referred to as Kuroda) in view of Verboom; Johannes J. et al. (US 5574706 A, hereafter referred to as Nagara) as applied in the last office action, filed 08/24/2004. Therefore, the rejection is maintained.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 3, 10, 13, 14, 16, 17, 19, 20, 22, 23, 26 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Kuroda; Kazuo et al. (US 5875163 A, hereafter referred to as Kuroda).

See the Non-Final Action filed 08/24/2004 for detailed action of prior rejections.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

2. Claims 2, 9, 11, 12, 15 and 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuroda; Kazuo et al. (US 5875163 A, hereafter referred to as Kuroda).

See the Non-Final Action filed 08/24/2004 for detailed action of prior rejections.

3. Claims 4-8, 18, 21, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuroda; Kazuo et al. (US 5875163 A, hereafter referred to as Kuroda) in view of Verboom; Johannes J. et al. (US 5574706 A, hereafter referred to as Nagara).

See the Non-Final Action filed 08/24/2004 for detailed action of prior rejections.

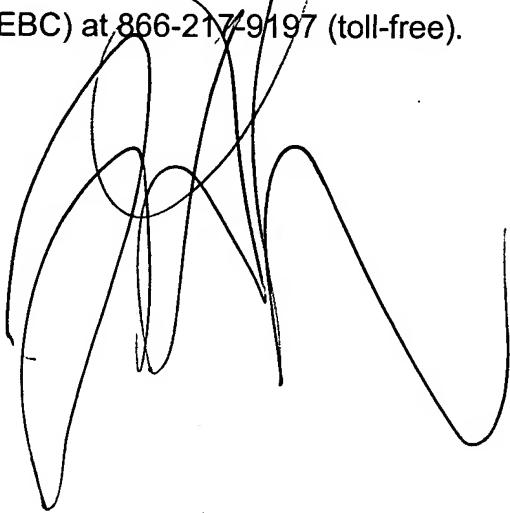
***Conclusion***

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D. Torres whose telephone number is (571) 272-3829. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decay can be reached on (571) 272-3819. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joseph D. Torres, PhD  
Primary Examiner  
Art Unit 2133